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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,422	01/10/2002	Kazumitsu Nakatsuka	217962US0PCT	5990
22850	7590	01/11/2005		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
FUBARA, BLESSING M				
ART UNIT		PAPER NUMBER		
1615				

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/030,422

**Applicant(s)**

NAKATSUKA, KAZUMITSU

**Examiner**

Blessing M. Fubara

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-19 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

Examiner acknowledges receipt of request for extension of time, request for continued examination, amendment and remarks filed 09/03/04. Claims 7-19 and 21-24 are pending.

#### *Claim Rejections - 35 USC § 112*

1. The rejection of claim 20 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is withdrawn in light of the cancellation of claim 20 by the amendment filed 09/03/04.

#### *Claim Rejections - 35 USC § 102*

2. The rejection of claims 7-10 and 15-21 under 35 U.S.C. 102(b) as being anticipated by Imazato et al. (US 5,733,949) is withdrawn because Imazato does not disclose a composition that contains alkali metal hydroxide, strong basic acid salt that is not aromatic or primary, secondary or aliphatic tertiary amines; the amines in Imazato aromatic secondary and aromatic tertiary amines. Thus applicants' argument regarding Imazato is persuasive.
3. Claims 7-13, 15-18, 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, Jr. (US 5,399,343).

Smith discloses a biocidal cosmetic composition (title). The composition comprises polymerizable carboxylic acid (column 3, lines 60-67), which meets the limitations of 7(b) and which are partially neutralized by alkali metals and amines such as trimethylamine, tributylamine, mono-, di-, and triethanolamine (column 2, lines 63 and 64; column 4, lines 5-8) and these amines meet the limitations of 7(e), 15-19, 23 and 24; acrylate copolymerizable monomer (column 4, lines 57-68; column 5, lines 1-20) meeting the limitations of 7(c);

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pyridinium salts as antimicrobial agent (column 46-59) meeting the limitation of 7(a) and 8-10; the solution of the polymer is neutralized with sodium hydroxide (column 7, line 12; column 8, line 23). The broad scope of the designated claims read on Smith.

4. Claims 7-19 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Vermeer (US 5,624,906).

Vermeer discloses oral hygiene composition comprises ingredients (a) through ff or (a) through r (column 42, line 28 to column 45 line 10). The language of the instant claims is comprising and the comprising does exclude the other ingredients not taught by the instant claims. Some of the ingredients that fall within the (a) through ff or (a) through (r) are calcium carbonate or acrylate and mixtures thereof (column 17, lines 26, 45, 48), pyridinium salts (column 34, lines 1-10; column 36, lines 1-26), sodium acetate and acetic acid buffer (column 36, lines 33-48), dicarboxylic acid derivative as an optional ingredient (column 39, lines 24-28) and sodium hydroxide pH control agents (column 41, lines 22-25)

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Blessing Fubara  
Patent Examiner  
Tech. Center 1600

A handwritten signature in black ink, appearing to read 'Blessing Fubara', is written over the printed name.